

In re Patent Application of
Ewers
Serial No. 10/681,617
Filed 10/08/2003

Remarks

Applicant appreciates the Examiner's careful review of the application and early allowance of claims 1-31 and 33.

Applicant believes rejected claims 32 and 34-35 define over the cited references of record and provides the following remarks in support of the patentability of these claims.

The Claims Are Novel Over The Reference By Ohmi et al.

The Examiner has rejected independent claims 32, 34 and 35 under 35 USC 102(b) as lacking novelty over the reference by Ohmi et al. (US 5,762,217). The Examiner takes the position that the Ohmi et al. reference describes a vented cap having a plurality of threads, identified as structural element 9. For the following reasons, Applicant respectfully points out that the characterization of Ohmi et al.'s structural element 9 as "threads" is incorrect.

First, the common meaning in the English language of the term "thread" is "a projecting helical rib (as in a fitting or on a pipe) by which parts can be screwed together." Source: Merriam-Webster on-line dictionary accessible at www.m-w.com; a printout of the definition is attached as Exhibit A. The specification of the present invention supports this meaning on page 8, beginning at line 5, wherein a method of the invention is described as "disposing on the fitting a vented cap having complementary threads by screwing the cap onto the fitting."

Second, an electronic search of the Ohmi et al. reference shows that the words "thread" and "threads" do not occur in said reference. Moreover, Ohmi et al.'s structural element 9, which is identified by the Examiner as "a plurality of threads" is described by the inventors themselves as "cuts or slits 9" and these slits and cuts are "axially extending," and not helical ribs. See Ohmi et al. at column 6, lines 5, 23 and 45. The figures in the Ohmi et al. reference clearly show that structural element 9 is not a helical rib.

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Additionally, Ohmi et al. describe how these cuts or slits 9 function, as set forth in column 6, lines 47-51.

The cuts 9 in the skirt portion 4 *act to weaken the condition of engagement* between the concave portion 6 of the outer circumference of the mouth portion of the container and the protrusion 7 of the skirt portion 4. But when the force of bundling and fixing acts by the ring member 2, the engagement condition becomes firm and accurate.

In contrast to this, it is well known that "threads" act to strengthen engagement between parts bearing complementary threads. Ohmi et al.'s cuts or slits require the interaction of another element, ring member 2, in order to strengthen the condition of engagement.

Accordingly, it appears clear that structural element 9 in the Ohmi et al. reference, which the Examiner relies on as being "threads," does not meet the common English language definition of threads and does not function as those skilled in the art would understand threads to function.

For those reasons, Applicant respectfully requests that the Examiner withdraw the anticipation rejection of claims 32, 34 and 35 in view of the cited reference by Ohmi et al.

Claim 35 Is Novel Over The Cited Reference By Ramirez

The Examiner has rejected independent claim 35 as anticipated by the invention described in the cited reference by Ramirez (US 5,894,953). Specifically, the Examiner has identified Ramirez' structural element 86 as constituting a plurality of threads. Respectfully, Applicant disagrees for the following reasons.

Ramirez identifies structural element 86 as "a semicircular interlocking member." See column 5, lines 7-8. Additionally, Ramirez' FIGS. 3 and 4 clearly show that structural elements 86 are not helical ribs. As noted above and supported with the definition from

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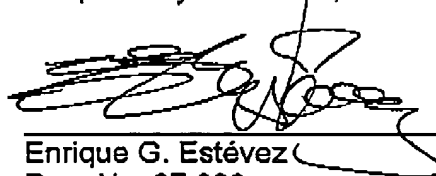
Merriam-Webster's on-line dictionary, threads are known by the skilled to be helical ribs. Rather, Ramirez' element 86 constitutes an interrupted interlock member, not threads.

Accordingly, Applicant respectfully requests that the Examiner withdraw the anticipation rejection of claim 35 based on the cited Ramirez reference.

Conclusion

Applicant thus believes the application is in condition for allowance and request such action from the Examiner at this time. If further prosecution may be aided by a conference, Applicant respectfully suggests that counsel may be contacted by telephone at the Examiner's convenience.

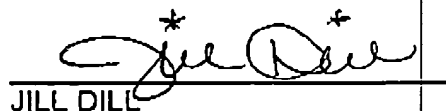
Respectfully submitted,



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CERTIFICATE OF FILING VIA FACSIMILE

I hereby certify that the foregoing is being filed in the United States Patent and Trademark Office via facsimile to its centralized facsimile number at 571-273-8300 this 27th day of March, 2006.


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